

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Thursday, 26 September 2019

Present: Councillor T Cox (Chair)

Councillors C Blakeley P Stuart
C Cooke J Williamson
P Gilchrist G Wood
M McLaughlin

In attendance: Councillors I Lewis
D Mitchell

9 APOLOGIES FOR ABSENCE

There were no apologies for absence received.

10 MEMBERS DECLARATIONS OF INTEREST

There were no declarations of interest.

11 MINUTES

RESOLVED:

That the Minutes of the meeting of the Standards and Constitutional Oversight Committee held on 11 June 2019 be confirmed as a correct record.

12 CONSTITUTIONAL ARRANGEMENTS FOR THE OPERATION OF THE NORTHERN LOCAL GOVERNMENT PENSION SCHEME INVESTMENT POOL

A Report by the Director of Governance and Assurance introduced by the Director of the Merseyside Pension Fund sought the Committee's approval to the constitutional arrangements that the Pension Committee, at its meeting on 16 July 2019, had recommended to the Council in order to implement the requirements imposed on administering authorities for local government pension schemes by the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (the Investment Regulations) to establish, in accordance with the guidance of the Secretary of State arrangements with other LGPS Pension Funds to pool investments in order to

oversee greater efficiency and economise on the costs of investment management.

The Committee noted that Tameside and Bradford Councils were the administering authorities for the local government pension schemes in Greater Manchester and West Yorkshire respectively.

The Committee also noted that the Pensions Committee had proposed that the Council, in its capacity as administering authority for the LGPS in Merseyside should enter into pooling arrangements with Tameside and Bradford Councils and to that end set up a Joint Governance Committee composed of elected representatives of all three authorities to oversee the implementation of the pooling of investments by the three LGPS schemes.

No other options were being considered since the reasons for the recommendations were adequate, and had the support of the Council's Pensions Committee and Tameside and Bradford Councils.

Appended to the report were:

- Minute No. 27 Extract of the meeting of the Pensions Committee held on 16 July 2019;
- the report of the Director of Pensions to the Pensions Committee on 16 July 2019; and
- the draft Northern LGPS Operating Agreement.

The Pensions Director was in attendance at the meeting and answered Members questions on the following matters raised.

- The option for a pooling company was not a statutory or regulatory requirement. An exemption could be obtained under Section 9 of the Financial Services and Markets Act. It could be demonstrated to the Government that the three local authorities were operating on a joint venture basis. Operating as a joint venture was the lower cost option and advice had been taken on this. The Pool was not seeking to incur unnecessary costs.
- Compulsory exit and voluntary exit procedures.
- Indemnity and protection of Members against any personal sanctions whilst carrying out functions as a Councillor were covered by the Public Health Act 1875 and by the Council's insurance.
- There was no uncertainty over the assets of the Merseyside Pensions Fund. The agreement had been structured in such a way that the assets of the Merseyside Pension Fund would be returned to the Fund in the fullness of time.
- Pooling partners and ethical investors.
- The Joint Investment Policy that was in place.

RESOLVED:

That this Committee recommends to the Council:

- (1) the proposed principles of governance contained in the draft Operating Agreement approved by the Pensions Committee at its meeting on 16 July 2019 and in particular the establishment of a Joint Committee with Tameside and Bradford Councils to oversee the required arrangements for the pooling of investments by all three Pension Funds;**
- (2) the Chair and Vice Chair of the Pensions Committee (or as otherwise determined by Pensions Committee) be the Council's elected representatives on the Joint Committee; and**
- (3) the Director of Pensions in consultation with the Director: Governance and Assurance be given delegated authority to negotiate and agree with Tameside and Bradford Councils the details of the final draft of the Operating Agreement within the parameters of the principles of governance approved by the Pensions Committee and the Standards and Constitutional Oversight Committee.**

13 REVIEW OF SCRUTINY ARRANGEMENTS

Councillor Dave Mitchell, the Chair of the Business Overview and Scrutiny Committee was in attendance at the meeting and introduced his comprehensive report on the review of the Council's overview and scrutiny committee arrangements that had been undertaken in consultation with the Committee Chairs and Group representatives. Members had considered the number of committees and their respective terms of reference and the report set out suggested steps on how to improve the arrangement.

The Committee was informed that the Scrutiny Review Panel had been established and an all non-executive Members' Workshop had been held. The report detailed the outcomes of the review of the scrutiny arrangements of the Business Overview and Scrutiny Committee. The findings and recommendations reflected the views of all the Members who had been involved.

The Review Panel had commissioned the Scrutiny Team to carry out a research exercise to explore governance including scrutiny arrangements at authorities with statistical similarities to Wirral and the experiences of Councils in the UK where committee systems had been introduced. A briefing pack had been approved by Chairs and Party Spokespersons of all four Overview and Scrutiny Committees and circulated to all non-executive Members in preparation for the workshop. It included statutory guidance on overview and

scrutiny in local government published in May 2019. This was a best practice guide and it was noted that Wirral already fulfils several of these areas of focus. It was also worth noting that areas that needed work were around organisational culture which required a long term commitment to change.

The Scrutiny Review Workshop for all non-executive Members was held on 17 July 2019 to review current scrutiny arrangements in Wirral and to discuss future options for scrutiny and Members from all Political Groups were in attendance, eleven in all, as well as key members of the Strategic Leadership Team. The Statutory Scrutiny Officer facilitated the session in order to ensure the strategic objections were clear, to provide an overview of the current arrangements and to ensure that key points were considered as part of the workshop.

At the Workshop Members were asked to consider what had been working well and what key principles of overview and scrutiny were important. The discussion produced two lists of positive areas of scrutiny and areas for improvement. Members then asked questions about developing a fit for purpose overview model for Wirral and two models had been presented and were detailed in the report.

As a result of the Members' Workshop several crucial findings had been gathered and there was agreement for the retention of the following key principles in any new model of governance to ensure decision-making was efficient, effective and legitimate:

- Openness and Transparency
- Ensuring Effective Oversight
- Holding Partners to account.
- Use of Task and Finish and Scrutiny Review Groups – Pre-decision Scrutiny.
- Effective Assignment of Members with appropriate knowledge and skills and across political groups to relevant Committees and sub-Committees.
- Continued Engagement with Stakeholders.

Councillor Mitchell reported that it was important to note that two separate reviews had been directed by the Council; the Review of Scrutiny outlined in the report and the Governance Review that was also reporting at this Committee. Both were related to the Council's governance arrangements and, therefore, it was noted that the two reviews had implications for each other. The primary objective of the Governance Review Working Group was to explore different governance options that could be implemented by Wirral Council. They were the current system, an executive model, a committee system or a potential hybrid of both. Some governance models did not require scrutiny. It had not been possible to propose an exact scrutiny model

because the Scrutiny Review Working Group had not been aware of the outcomes of the Governance Review until the report had been published.

Councillor Mitchell informed that the Council currently had four Overview and Scrutiny Committees and three Members sat on the Overview and Scrutiny Committee of the Merseyside City Region Combined Authority.

Appended to the report were:

- Appendix 1 – The Review of Scrutiny Arrangements Report
- Appendix 2 – The Review Briefing pack including Scoping Document
- Appendix 3 – The Presentation to the Members' Workshop

Members then commented on the report and asked a number of questions. Issues raised included:

- The monitoring of partner organisations should be built into any new form of governance arrangements.
- In the past not all the recommendations made to the Cabinet by Overview and Scrutiny Committees had been approved.
- Task and Finish Groups and the need for Call-in would need to be considered before any new governance structure was agreed.
- Culture was an issue and needed to be changed within the Council.
- Good scrutiny provided an invaluable service.
- A suggestion that when the Minute of this item of business was published, a document covering what the Committee discussed here including the summary and findings that Councillor Mitchell had outlined be included in a paper for Members to use as a reference document.
- It was essential that attention be given to Merseyside City Region Combined Authority scrutiny in any new governance arrangements.

RESOLVED: That

- (1) the Business Overview and Scrutiny Committee be thanked for its very detailed report;**
- (2) the Council be recommended to approve the recommendations of the review of its scrutiny arrangements as follows:**
 - (a) the findings of this review of scrutiny arrangements be taken into account as part any new governance model, with the six key principles of effective scrutiny formally included within the new model of decision-making;**
 - (b) the effectiveness of the Overview & Scrutiny arrangements of the new governance model at Wirral be reviewed after 12**

months to ensure the good practice currently in operation is continued; and

- (c) the new governance model should ensure full consideration of Wirral's involvement in the Liverpool City Region Combined Authority Overview & Scrutiny function.

14 GOVERNANCE REVIEW

At the Annual Meeting of the Council the Committee had been charged with carrying out a review of the Council's governance arrangements. Consequently, Councillor Tony Cox introduced a report by the Governance Review Working Group that had undertaken this work. The Working Group had met during the summer and, with the assistance of the Local Government Association (LGA), had conducted interviews and had hosted an all Member workshop. The findings of the Working Group, and its implications, were set out in the report.

The Governance Review Working Group had considered that the recommended move to a Streamlined Committee System form of governance best met its objectives for governance arrangements of:

- **Accountability** – responsibilities and accountability should be clear, within the Council and to residents;
- **Credibility** – governance should assist good decision making, which involved proper and early scrutiny;
- **Transparency** – the decision making process should be open and transparent to Members and to the public;
- **Collaboration** - decision making should be collaborative across parties and less combative;
- **Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision making.

Members noted that the recommendations, if adopted, set in train a number of pieces of work to be completed to allow for the change of form of governance within the desired timeframe.

The Committee was informed that varying alternative governance arrangements had been considered by the Working Group. This had included a particular emphasis on a more inclusive and open version of a Leader and Cabinet form of executive arrangements, as well as 'Hybrid' and other forms of governance arrangements.

However, these other governance options had been rejected as it was considered that they would not achieve the objectives to the same high degree or as conclusively as a Streamlined Committee System.

The Working Group had considered delaying the implementation date of the change of governance arrangements to the Annual Meeting of 2021 to allow for more time to draw up a satisfactory working structure. However, it was satisfied that any advantages were more than outweighed by the view that such a delay would be counter-productive and that a workable revised Constitution could be produced in the given time period.

Appended to the report was:

- Appendix A – The Presentation slides for the Governance Review Workshop; and
- Appendix B – The Governance Review Working Group's Chair's Report.

Councillor Cox reported that accountability, credibility and transparency were paramount and it was important not just to keep governance arrangements the same but about improving them so that the electors could hold Members to account. Also, collaborative working was very important and the current form of governance did not actually endear people to work in collaboration. If the Council was to move forward with an improved form of governance there was now an opportunity to make a genuine change to how the Council was actually run and the oversight that Members had.

Councillor Cox also reported that it was important that information was made available because in the past Members had been told more or less to go and look for themselves. This should not be allowed to happen going forward. It needed to be eradicated and a more inclusive way of working found and if this meant a change in governance arrangements, then so be it.

The Director of Governance and Assurance informed that Appendix B, written by the Chair, was the most important part of the report. The Director had drafted the covering report and had included the practical implications of changing the Council's governance arrangements.

Members then commented on the report and asked a number of questions. Issues raised included:

- The Working Group had been speedy and had completed a good consensual piece of work and there had been no major defence of the Cabinet System. No one had said staying with the current system of governance was the right option.
- The All Member Workshop had been well attended and although some Members did have concerns about change and how that would look,

overwhelmingly those who had attended had declared that they were in favour of change and were not resistant to it. They had recognised that things moved on, times changed and the way the Council was constructed had to change. This had all been helpful.

- At the time the original Notice of Motion was debated there had been an overwhelming feeling that decision-making in the Council had not been of the top quality that it should have been and, in fact, even in the face of fairly strong public opposition, that decision-making had not been revisited. The current model of governance had been imposed on the Council by central government. It was thought that the Strong Leader model with the delegation of decision-making had led the Council down the wrong path. It was important to review the Council's governance arrangements now and the starting point of the Working Group had not been to say how we implement a Committee System but had been to say how do we reverse the process that has been going on for some years.
- Members wanted meaningful involvement in decision-making that meant something to their constituents. They needed to serve the electorate better. The Council's powers currently were not what the public expected it to have and this needed to be put right. The public's perception currently was that decisions were made behind closed doors.
- The number of Freedom of Information requests had gone up considerably since the Cabinet System was implemented. Wirral Council had the highest number of these submitted to a local authority in the country.
- It would be a mistake to see this chance as a return to the old Committee System. It was not a return to any system that the Council had in place previously. It would be a much more streamlined system.
- There were still concerns to be addressed and one of these was the speed at which the change was taking place. However, if Members found the time constraints were too tight, the Council could decide at its meeting on 14 October 2019 that it did not want to implement new governance arrangements until May 2021. If that decision was made there could not be another vote, in the meantime, to reverse that decision.
- Some Members thought the timescale was too rushed to implement a change in governance arrangements within six months and informed that the representative from the Local Government Association who had attended the Members' Workshop had recommended a timescale of at least 18 months for such change to be implemented.
- If the Council agreed the recommendations set out in the report the Director of Governance and Assurance had confirmed that it would be possible to have a workable Council Constitution in place for May 2020. It would then be continually reviewed and evolve as appropriate.
- It was not anticipated that the new arrangements would lead to an increase in Members' Allowances. Instead it was expected that there

would be a reduction as there would not be as many Special Responsibility Allowances included in the new Scheme of Members' Allowances. This should mean a cost saving.

- Cost from an officers' perspective would:
 - (1) include implementing the changes and the Constitution which would be a one off. However, there were issues identified with the current Constitution which meant it would need to be rewritten anyway if the Council did not move to new governance arrangements. Therefore, the cost of a new Constitution would be incurred whatever the Council decided to do regarding its future governance.
 - (2) depend on the number of meetings held, were they were held and how many Committees were established. Inevitably, other councils that had moved to a Committee System had ended up employing one or two more Democratic Services Officers. The change to committees also had taken up more of officers' time. The Committee Structure that was agreed would have direct consequences for the actual costs and could result in an 'invest to save' situation.
- The Committee should receive regular updates on the costs involved with the Council changing to a new governance arrangement.
- It was difficult to see how there could be any more meetings in the Council's Calendar of Meetings as a result of a change in governance than there was under the current model, as there were meetings scheduled on most evenings.
- Under the current system of governance decision-making had been quick but not necessarily effective.

Councillor Gill Wood proposed the following:

That the Committee is recommended:

- (1) to recommend to the Council that:
 - (a) the Council moves from Leader and Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council meeting in 2021; and
 - (b) this Committee accordingly prepare a draft revised Constitution to propose to Council at its earliest opportunity in the new Municipal Year.
- (2) to task the Governance Review Working Group to:
 - (a) consider possible structures for a Committee System of governance;

- (b) undertake due consultation but giving preference to a streamlined style of arrangements; and
- (c) oversee the drafting of revised standing orders, delegations and procedures by the Director of Governance and Assurance, with a view to producing an operational Constitution for the 2021/2022 Municipal Year in draft form for consideration in the new Municipal Year.

The proposal was seconded by Councillor Paul Stuart.

However, some Members believed that progress should be made more quickly than proposed here and to do so Councillor Phil Gilchrist moved the following Amendment:

Having considered:

- (a) the materials presented to the Governance Review Working Group; and
- (b) the discussions held at the Working Group's meetings and subsequent Member sessions.

This Committee is of the view that Wirral's residents will now be better served by the introduction of a more accountable and transparent way of conducting the Council's business, policy formulation and decision-making.

It is the opinion of this Committee that the Council should now move to a Committee based structure to be designed, finalised and in place for the next Municipal Year.

The Committee notes that a range of costs have been put forward that apply to the revised arrangements. It is recognised however, that revisions to the existing Constitution have been under discussion for some time and that costs would have been incurred in that process.

The Committee considers that the operational costs of the new system of governance should be the subject of regular reports and that in practice these costs should be minimised.

The Committee:

- (1) recommends to the Council: That
 - (a) there be a move from Leader and Cabinet Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council Meeting in 2020; and

- (b) the Standards and Constitutional Oversight Committee accordingly prepare a draft revised Constitution to propose to the Council meeting of 16 March 2020.
- (2) the Governance Review Working Group be tasked with:
- (a) considering possible structures for a Committee System of governance system of governance;
 - (b) undertaking due consultation but giving preference to a streamlined style of arrangements; and
 - (c) overseeing the drafting of revised standing orders, delegations and procedures by the Director of Governance and Assurance, with a view to producing an operational Constitution for the 2020/21 Municipal Year in draft form for consideration in February 2020.

This amendment was seconded by Councillor Moira McLaughlin and put to the vote and carried (5:0) with 3 abstentions.

The amendment then became the substantive Motion. It was put to the vote and it was

RESOLVED: (5:0) (Three abstentions)

Having considered:

- (a) the materials presented to the Governance Review Working Group; and**
- (b) the discussions held at the Working Group's meetings and subsequent Member sessions.**

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The Committee considers that the operational costs of the new system of governance should be the subject of regular reports and that in practice these costs should be minimised.

The Committee:

(1) recommends to the Council: That

(a) there be a move from Leader and Cabinet Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council Meeting in 2020; and

(b) the Standards and Constitutional Oversight Committee accordingly prepare a draft revised Constitution to propose to the Council meeting of 16 March 2020.

(2) the Governance Review Working Group be tasked with:

(a) considering possible structures for a Committee System of governance system of governance;

(b) undertaking due consultation but giving preference to a streamlined style of arrangements; and

(c) overseeing the drafting of revised standing orders, delegations and procedures by the Director of Governance and Assurance, with a view to producing an operational Constitution for the 2020/21 Municipal Year in draft form for consideration in February 2020.

15 MEMBERSHIP OF THE INDEPENDENT REMUNERATION PANEL

The Director of Governance and Assurance introduced his report on the Membership of the Independent Remuneration Panel (IRP). He informed that the ongoing review of the Council's governance arrangements may result in the introduction of a different set of roles and responsibilities for Members. In the light of that, the Director asked the Committee to confirm postponement of the ongoing review of this Council's Scheme of Members' Allowances pending the agreement of any revised governance arrangements.

The Director of Governance and Assurance informed that discussion with Members had highlighted that the onset of any revised governance arrangements of whichever form they might take, was an ideal juncture at which to refresh the membership of the IRP and introduce fresh perspectives. Moreover, whilst the Council was extremely grateful to the current IRP for the work that it had carried out, its membership had remained largely unchanged

for a considerable number of years. In order to maintain a robust IRP review process and to sustain a public perception of independence it was necessary that the membership of the IRP was refreshed from time to time.

The Director informed that Government guidance suggested that the IRP's membership should be refreshed every three to five years and the current IRP consisted of some very long serving members, with the exception of its Chair who was relatively new.

The Committee was also asked to consider whether any of the Panel members should receive an honorarium. It was informed that currently, only the Chair received one in the sum of £500 per annum.

RESOLVED: That

- (1) pending any revised governance arrangements coming into effect, the Committee:**
 - (a) agrees to pause the current review of the Members' Allowances Scheme;**
 - (b) agrees to refresh the membership of the Independent Remuneration Panel (IRP) in advance of requesting a new review of the Scheme of Members' Allowances in respect of any revised Council governance arrangements; and**
 - (c) authorises the Head of Democratic and Member Services:**
 - (i) to advertise for candidates from the general public and a wide range of organisations, including the local business community and voluntary organisations, for up to five members of the IRP to serve for a period of four years and conduct the next review of Members' Allowances;**
 - (ii) to separately recruit a Chair for the IRP as he or she will have a separate and distinct skill set and knowledge requirement; and**
 - (iii) to interview and recommend for selection (in consultation with Political Group Leaders) up to five nominees, including the Chair for appointment to the IRP;**
- (2) the nominees for appointment to the IRP be subject to the Council's approval;**
- (3) an honorarium of £500 (no increase) be paid to the Chair of the Panel only, for a period of four years; and**

- (4) the scope of the review of the Scheme of Members' Allowances be comprehensive, taking into account any revision of governance arrangements.**

16 **CHAIR'S THANK YOU**

Councillor Tony Cox thanked all of the Members who had worked with him on the Governance Review Working Group. He considered that a good piece of cross party work had been produced.

Councillor Cox also thanked all the Officers who had assisted the Governance Review Working Group for their help and support.